

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

TEMECULA VALLEY UNIFIED
SCHOOL DISTRICT.

OAH Case No. 2015120764

ORDER GRANTING REQUEST FOR
CONTINUANCE AND SETTING
PREHEARING CONFERENCE

On January 29, 2016, the parties filed a joint request to continue the prehearing conference in this matter, based upon the possible imminence of settlement.

A due process hearing must be conducted and a decision rendered within 45 days of receipt of the due process notice unless an extension is granted for good cause. (34 C.F.R. § 300.515(a) & (c) (2006); Ed. Code, §§ 56502, subd. (f), 56505, subd. (f)(3); Cal. Code Regs., title 1, § 1020.) As a result, continuances are disfavored. Good cause may include the unavailability of a party, counsel, or an essential witness due to death, illness or other excusable circumstances; substitution of an attorney when the substitution is required in the interests of justice; a party's excused inability to obtain essential testimony or other material evidence despite diligent efforts; or another significant, unanticipated change in the status of the case as a result of which the case is not ready for hearing. (See Cal. Rules of Court, rule 3.1332(c).) The Office of Administrative Hearings considers all relevant facts and circumstances, including the proximity of the hearing date; previous continuances or delays; the length of continuance requested; the availability of other means to address the problem giving rise to the request; prejudice to a party or witness as a result of a continuance; the impact of granting a continuance on other pending hearings; whether trial counsel is engaged in another trial; whether the parties have stipulated to a continuance; whether the interests of justice are served by the continuance; and any other relevant fact or circumstance. (See Cal. Rules of Court, rule 3.1332(d).)

OAH has reviewed the request for good cause and considered all relevant facts and circumstances. The request is:

☒ Granted. The prehearing conference date is vacated. Although the possibility of settlement is not in itself good cause, it may be weighed in considering a request for a continuance when both parties join in the request. As this would be the second continuance requested by the parties, a heightened showing of good cause is required. A weighing of the factors, such as the fact that the prior continuance was of the mediation date only, that the parties do not seek to delay the hearing date, the brief duration of the continuance, the lack of

prejudice to either party, and the potential preservation of judicial resources through settlement, all commend the request. The request is granted. The parties' requested time of 3:00 p.m. is not available. This matter will be set as follows:

Prehearing Conference: February 5, 2015, at 1:00 p.m.

The hearing date of February 10, 2016, remains as scheduled.

IT IS SO ORDERED.

DATE: January 29, 2016

/s/

CHRIS BUTCHKO
Administrative Law Judge
Office of Administrative Hearings